Home Courts Court Dockets Legal Research Calendar Help

Previous Section | Top Of Index | This Point in Index | Citationize | Next Section | Print Only

Title 85. Workers' Compensation

■Oklahoma Statutes Citationized

■Title 85. Workers' Compensation

Chapter 11 - General Provisions

Section 308 - Definitions

Cite as: O.S. §, ____

Two Enactments During the 2013 Legislative Session

Version 1 (as repealed by Laws 2013, SB 1062, c. 208, § 171, eff. February 1, 2014)

Repealed by Laws 2013, SB 1062, c. 208, § 171, eff. February 1, 2014

Version 2 (as amended by Laws 2013, HB 2201, c. 254, § 37, eff. January 1, 2015)

As used in the Workers' Compensation Code:

- 1. "Actually dependent" means a surviving spouse, a child, or any other person who receives one-half (1/2) or more of his or her support from the employee;
- 2. "Administrator" means the Administrator of the Workers' Compensation Court;
- 3. "Amount in dispute" means the dollar value of any permanent disability award granted to the employee by the Court for a disability claim which is greater than the dollar amount offered by the employer that admits compensability within twenty (20) days of the filing of the Employee's First Notice of Accidental Injury and Claim for Compensation to the employee for such disability claim, when the employer has made a written settlement offer within thirty (30) days of the employee reaching maximum medical improvement;
- 4. "Brother" or "sister" means a sibling of the employee under eighteen (18) years of age, eighteen (18) years of age or over and physically or mentally incapable of self-support, eighteen (18) years of age or over and actually dependent and brothers and sisters by adoption;
- 5. "Case management" means the ongoing coordination, by a case manager, of health care services provided to an injured or disabled worker, including, but not limited to systematically monitoring the treatment rendered and the medical progress of the injured or disabled worker; ensuring that any treatment plan follows all appropriate treatment protocols, utilization controls and practice parameters; assessing whether alternative health care services are appropriate and delivered in a cost-effective manner based upon acceptable medical standards; and ensuring that the injured or disabled worker is following the prescribed health care plan;
- 6. "Case manager" means a person who is a registered nurse with a current, active unencumbered license from the Oklahoma Board of Nursing, or possesses one or more of the following certifications which indicate the individual has a minimum number of years of case management experience, has passed a national competency test and regularly obtains continuing education hours to maintain certification:
- a. Certified Disability Management Specialist (CDMS),
- b. Certified Case Manager (CCM),
- c. Certified Rehabilitation Registered Nurse (CRRN),
- d. Case Manager Certified (CMC),
- e. Certified Occupational Health Nurse (COHN), or
- f. Certified Occupational Health Nurse Specialist (COHN-S);
- 7. "Certified workplace medical plan" means an organization of health care providers or any other entity, certified by the State Commissioner of Health, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance

association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity to provide medical care under the Workers' Compensation Code. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or prepaid plans;

- 8. "Child" means a natural or adopted son or daughter of the employee under eighteen (18) years of age; or a natural or adopted son or daughter of an employee eighteen (18) years of age or over who is physically or mentally incapable of self-support; or any natural or adopted son or daughter of an employee eighteen (18) years of age or over who is actually dependent; or any natural or adopted son or daughter of an employee between eighteen (18) and twenty-three (23) years of age who is enrolled as a full-time student in any accredited educational institution. The term "child" includes a posthumous child, a child legally adopted or one for whom adoption proceedings are pending at the time of death, an actually dependent stepchild or an actually dependent acknowledged child born out of wedlock;
- 9. "Claimant" means a person who claims benefits for an injury pursuant to the provisions of the Workers' Compensation Code;
- 10. a. "Compensable injury" means any injury or occupational illness, causing internal or external harm to the body, which arises out of and in the course of employment if such employment was the major cause of the specific injury or illness. An injury, other than cumulative trauma, is compensable only if it is caused by a specific incident and is identifiable by time, place and occurrence unless it is otherwise defined as compensable in this act. A compensable injury must be established by objective medical evidence. The employee has the burden of proof to establish by a preponderance of the evidence that such unexpected or unforeseen injury was in fact caused by the employment. There is no presumption from the mere occurrence of such unexpected or unforeseen injury that the injury was in fact caused by the employment.
- b. "Compensable injury" means a cardiovascular, coronary, pulmonary, respiratory, or cerebrovascular accident or myocardial infarction causing injury, illness, or death, only if, in relation to other factors contributing to the physical harm, a work-related activity is the major cause of the physical harm. Such injury shall not be deemed to be a compensable injury unless it is shown that the exertion of the work necessary to precipitate the disability or death was extraordinary and unusual in comparison to the usual work of the employee, or alternately, that some unusual incident occurred which is found to have been the major cause of the physical harm.
- c. "Compensable injury" shall not include the ordinary, gradual deterioration or progressive degeneration caused by the aging process, unless the employment is a major cause of the deterioration or degeneration and is supported by objective medical evidence; nor shall it include injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities.
- d. "Compensable injury" includes personal property which is established by objective medical evidence to be medically necessary and which replaces or improves normal physical function of the body, such as artificial dentures, artificial limbs, glass eyes, eye glasses and other prostheses which are placed in or on the body and is damaged as a result of the injury.
- e. "Compensable injury" shall not include an injury resulting directly or indirectly from idiopathic causes; any contagious or infectious disease unless it arises out of and occurs in the scope and course of employment; or death due to natural causes occurring while the worker is at work.
- f. "Compensable injury" shall not include mental injury that does not arise directly as a result of a compensable physical injury, except in the case of rape or other crime of violence which arises out of and in the course of employment;
- 11. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Code;
- 12. "Consequential injury" means injury or harm to a part of the body that is a direct result of the injury or medical treatment to the part of the body originally injured in the claim. The Court shall not make a finding of a consequential injury unless it is established by objective medical evidence that medical treatment for such part of the body is required:
- 13. "Continuing medical maintenance" means medical treatment that is reasonable and necessary to maintain claimant's condition resulting from the compensable injury or illness after reaching maximum medical improvement. Continuing medical maintenance shall not include diagnostic tests, surgery, injections, counseling, physical therapy, or pain management devices or equipment, unless specifically authorized by the Workers' Compensation Court in advance of such treatment;
- 14. "Court" means the Workers' Compensation Court;
- 15. "Cumulative trauma" means a compensable injury which is repetitive in nature and engaged in over a period of time, the major cause of which results from employment activities, and proved by objective medical evidence;
- 16. "Drive-away operations" include every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, or any combination thereof, with or without towing a privately owned vehicle;
- 17. "Employee" means any person engaged in the employment of an employer covered by the terms of the Workers' Compensation

Code except for such persons as may be excluded elsewhere in this act. Provided, any person excluded as an employee may, if otherwise qualified, be eligible for benefits under the Workers' Compensation Code if specifically covered by any policy of insurance covering benefits under the Workers' Compensation Code. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a firefighter, peace officer or emergency management worker. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor;

- 18. "Employer", except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as defined in this section. Employer may also mean the employer's workers' compensation insurance carrier, if applicable;
- 19. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer or any authorized voluntary or uncompensated worker rendering services as a firefighter, peace officer or emergency management worker;
- 20. "Evidence-based" means expert-based, literature-supported and outcomes validated by well-designed randomized trials when such information is available and which uses the best available evidence to support medical decision making;
- 21. "Gainful employment" means the capacity to perform employment for wages for a period of time that is not part-time, occasional or sporadic;
- 22. "Grandchild" means a child of a child;
- 23. "Impaired self-insurer" means a private self-insurer or group self-insurance association that fails to pay its workers' compensation obligations, or is financially unable to do so and is the subject of any proceeding under the Federal Bankruptcy Reform Act of 1978, and any subsequent amendments or is the subject of any proceeding in which a receiver, custodian, liquidator, rehabilitator, trustee or similar officer has been appointed by a court of competent jurisdiction to act in lieu of or on behalf of the self-insurer;
- 24. "Incapacity" means inadequate strength or ability to perform a work-related task;
- 25. "Independent medical examiner" means a licensed physician authorized to serve as a medical examiner pursuant to this act;
- 26. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, including CompSource Mutual Insurance Company, and employers permitted to pay compensation directly under the provisions of Section 351 of this title;
- 27. "Light duty" describes the status of an employee when a physician has declared the employee available for work with specific temporary physical restrictions;
- 28. "Major cause" means more than fifty percent (50%) of the resulting injury, disease or illness. A finding of major cause shall be established by a preponderance of the evidence. A finding that the workplace was not a major cause of the injury, disease or illness shall not adversely affect the exclusive remedy provisions of this act and shall not create a separate cause of action outside of this act;
- 29. "Maximum medical improvement" means that no further material improvement would reasonably be expected from medical treatment or the passage of time:
- 30. "Medical treatment" means such medical, diagnostic, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be reasonable and necessary after the compensable injury for an injured employee;
- 31. "Nationally recognized" includes, but is not limited to, syntheses of clinical issues that may take the form of published reports in the scientific literature, national consensus documents, formalized documents addressing standards of practice, practice parameters from professional societies or commissions, and technology assessments produced by independent evidence-based practice centers;
- 32. "Objective medical evidence" means evidence which meets the criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court case law applicable thereto. Objective findings are those findings which cannot come under the voluntary control of the patient. When determining physical or anatomical impairment, neither a physician, any other medical provider, a judge of the Workers' Compensation Court, nor the courts may consider complaints of pain. For the purpose of making physical or anatomical impairment ratings to the spine, physicians shall use criteria established by the American Medical Association guides or modifications thereto as approved by the Legislature. Objective evidence necessary to prove physical or anatomical impairment in occupational hearing loss cases shall be established by medically recognized and accepted clinical diagnostic methodologies, including, but not limited to, audiological tests that measure air and bone conduction thresholds and speech discrimination ability. Medical opinions addressing compensability and permanent impairment must be stated within a reasonable degree of medical certainty;

- 33. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease. An occupational disease arises out of the employment only if the employment was the major cause of the resulting occupational disease and such is supported by objective medical evidence, as defined in this section;
- 34. "Peer review" means the process of subjecting submitted manuscripts, guidelines, or other clinical or scholarly work to the scrutiny of others who are experts in the same field;
- 35. "Permanent partial impairment" means any anatomical abnormality or loss of use after maximum medical improvement has been achieved which can be evaluated by a physician. Any examining physician shall only evaluate impairment in accordance with the method prescribed in Section 333 of this title. All evaluations of permanent impairment must be supported by objective medical evidence:
- 36. "Permanent total disability" means incapacity, because of accidental injury or occupational disease, to earn wages in any employment for which the employee may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation. Loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability;
- 37. "Private self-insurer" means a private employer that has been authorized to self-insure its workers' compensation obligations pursuant to Section 351 of this title, but does not include group self-insurance associations authorized under Section 351 of this title or Section 398 of this title, or any public employer that self-insures pursuant to Section 313 of this title;
- 38. "Prosthetic device" means an artificial device used to replace a part or joint of the body that is lost or injured in an accident or illness covered by this act;
- 39. "Qualified independent medical examiner" means a licensed medical doctor or doctor of Osteopathy qualified to serve as an independent medical examiner pursuant to this act;
- 40. "Scheduled member" or "member" means hands, fingers, arms, legs, feet, toes, and eyes. In addition, for purposes of the Multiple Injury Trust Fund only, "scheduled member" means hearing impairment;
- 41. "Scientifically based" involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to medical testing, diagnoses and treatment; is adequate to justify the general conclusions drawn; and has been accepted by a peer-review journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review;
- 42. "State-developed" includes formalized treatment guidelines developed and adopted by state governments, or by the Workers' Compensation Court upon recommendation of the Physician Advisory Committee;
- 43. "State's average weekly wage" means the average weekly wage in this state determined by the Oklahoma Employment Security Commission annually, which shall be used to establish maximum benefits under the Workers' Compensation Code for injuries occurring during a one-year period, which period shall begin on the first day of November after publication by the Oklahoma Employment Security Commission. For the purpose of computing benefits payable under the Workers' Compensation Code, the state's average weekly wage shall be rounded to the nearest dollar;
- 44. "Subcontractor" means a person, firm, corporation or other legal entity hired by the general or prime contractor to perform a specific task for the completion of a work-related activity;
- 45. "Surgery" does not include an injection, or the forcing of fluids beneath the skin, for treatment or diagnosis;
- 46. "Surviving spouse" means the employee's spouse by reason of a legal marriage recognized by any state or nation or by common law, under the requirements of a common law marriage in this state, as determined by the Workers' Compensation Court;
- 47. "Temporary partial disability" describes the status of an injured worker who is under active medical care that is expected to improve his or her condition and who is unable to perform some of the normal activities of his or her work or is limited to a portion of his or her normal hours of employment;
- 48. "Treating physician" means the licensed physician authorized to provide active medical treatment for an injured worker; and
- 49. "Wages" means money compensation received for employment at the time of the injury, including the reasonable value of board, rent, housing, lodging, bonuses, sales commissions, or similar advantage received from the employer.

Historical Data

Laws 2011, SB 878, c. 318, § 8; Repealed by Laws 2013, SB 1062, c. 208, § 171, eff. February 1, 2014; Amended by Laws 2013, HB

2201, c. 254, § 37, eff. January 1, 2015 (superseded document available).

Citationizer[©] Summary of Documents Citing This Document

Cite Name	Level	
Oklahoma Court of Civil Appeals Cases		
Cite	Name	Level
2012 OK CIV APP 92, 287 P.3d 410,	HARVEY v. AUTO PLUS OF WOODWARD	Cited
2013 OK CIV APP 111, 315 P.3d 1025,	L.E. JONES DRILLING CO. v. HODGE	Cited
2014 OK CIV APP 33, 329 P.3d 761,	CITY OF TULSA v. O'KEEFE	Cited
2015 OK CIV APP 11,	IN THE MATTER OF THE DEATH OF TAYLOR	Discussed at Length
Oklahoma Supreme Court Cases		
Cite	Name	Level
2011 OK 102, 290 P.3d 1,	OKLAHOMA STATE CHIROPRACTIC INDEPENDENT PHYSICIANS ASSOC. v. FALLIN	Discussed at Length
2012 OK 50, 280 P.3d 323,	YZER, INC. v. RODR	Cited
2012 OK 75, 298 P.3d 520,	ZALOUDEK GRAIN COMPANY v. COMPSOURCE OKLAHOMA	Cited
2013 OK 18, 300 P.3d 1188,	BERTRAND v. LAURA DESTER CENTER	Cited
Citationizer: Table of Authority		

Cite Name Level

None Found.

5 of 5